



February 12, 2016

ENGROSSED SENATE BILL No. 26

DIGEST OF SB 26 (Updated February 10, 2016 10:01 am - DI 125)

Citations Affected: IC 31-34.

Synopsis: Children in need of services. Provides that a child is a child in need of services if the child needs care, treatment or rehabilitation and lives in the same household as an adult who: (1) committed certain offenses; or (2) has been charged with certain offenses and is awaiting trial. Makes conforming amendments.

Effective: July 1, 2016.

**Steele, Head, Houchin,
Randolph Lonnie M**

(HOUSE SPONSORS — STEUERWALD, KOCH)

January 5, 2016, read first time and referred to Committee on Judiciary.

January 21, 2016, reported favorably — Do Pass.

January 25, 2016, read second time, amended, ordered engrossed.

January 26, 2016, engrossed. Read third time, passed. Yeas 49, nays 0.

HOUSE ACTION

February 8, 2016, read first time and referred to Committee on Family, Children and Human Affairs.

February 11, 2016, amended, reported — Do Pass.

ES 26—LS 6029/DI 106



February 12, 2016

Second Regular Session 119th General Assembly (2016)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2015 Regular Session of the General Assembly.

ENGROSSED SENATE BILL No. 26

A BILL FOR AN ACT to amend the Indiana Code concerning family law and juvenile law.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 31-34-1-3, AS AMENDED BY P.L.168-2014,
2 SECTION 43, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2016]: Sec. 3. (a) A child is a child in need of services if,
4 before the child becomes eighteen (18) years of age:

5 (1) the child is the victim of a ~~sex an~~ offense under:

6 (A) IC 35-42-4-1;

7 (B) IC 35-42-4-2 (before its repeal);

8 (C) IC 35-42-4-3;

9 (D) IC 35-42-4-4;

10 (E) IC 35-42-4-7;

11 (F) IC 35-42-4-9;

12 (G) IC 35-45-4-1;

13 (H) IC 35-45-4-2;

14 (I) IC 35-46-1-3; or

15 (J) the law of another jurisdiction, including a military court,
16 that is substantially equivalent to any of the offenses listed in
17 clauses (A) through (I); and

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(2) the child needs care, treatment, or rehabilitation that:

(A) the child is not receiving; and

(B) is unlikely to be provided or accepted without the coercive intervention of the court.

(b) A child is a child in need of services if, before the child becomes eighteen (18) years of age:

(1) the child lives in the same household as another child who is the victim of a sex offense under:

(A) IC 35-42-4-1;

(B) IC 35-42-4-2 (before its repeal);

(C) IC 35-42-4-3;

(D) IC 35-42-4-4;

(E) IC 35-42-4-7;

(F) IC 35-42-4-9;

(G) IC 35-45-4-1;

(H) IC 35-45-4-2;

(I) IC 35-46-1-3; or

(J) the law of another jurisdiction, including a military court, that is substantially equivalent to any of the offenses listed in clauses (A) through (I);

(2) the child lives in the same household as the adult who:

(A) committed the sex offense under subdivision (1) and the sex offense resulted in a conviction or a judgment under IC 31-34-11-2; or

(B) has been charged with a sex offense listed in subdivision (1) and is awaiting trial;

(3) the child needs care, treatment, or rehabilitation that:

(A) the child is not receiving; and

(B) is unlikely to be provided or accepted without the coercive intervention of the court; and

(4) a caseworker assigned to provide services to the child:

(A) places the child in a program of informal adjustment or other family or rehabilitative services based upon the existence of the circumstances described in subdivisions (1) and (2) and the assigned caseworker subsequently determines further intervention is necessary; or

(B) determines that a program of informal adjustment or other family or rehabilitative services is inappropriate.

A child is a child in need of services if, before the child becomes eighteen (18), the child:

(1) lives in the same household as an adult who:

(A) committed an offense described in subsection (a)(1)



- 1 **against a child, and the offense resulted in a conviction or**
 2 **a judgment under IC 31-34-11-2; or**
 3 **(B) has been charged with an offense described in**
 4 **subsection (a)(1) against a child and is awaiting trial; and**
 5 **(2) needs care, treatment, or rehabilitation that:**
 6 **(A) the child is not receiving; and**
 7 **(B) is unlikely to be provided or accepted without the**
 8 **coercive intervention of the court.**

9 SECTION 2. IC 31-34-12-4.5 IS AMENDED TO READ AS
 10 FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 4.5. (a) There is a
 11 rebuttable presumption that a child is a child in need of services if the
 12 state establishes that

- 13 (1) ~~another child in the same household is the victim of a sex~~
 14 ~~offense described in IC 31-34-1-3; and~~
 15 (2) ~~the sex offense described in IC 31-34-1-3:~~
 16 ~~(A) was committed by an adult who lives in the household~~
 17 ~~with the child; and~~
 18 ~~(B) resulted in a conviction of the adult or a judgment under~~
 19 ~~IC 31-34-11-2 as it relates to the child against whom the sex~~
 20 ~~offense was committed.~~

21 **the child lives in the same household as an adult who:**

- 22 **(1) committed an offense described in IC 31-34-1-3 against a**
 23 **child, and the offense resulted in a conviction or a judgment**
 24 **under IC 31-34-11-2; or**
 25 **(2) has been charged with an offense described in IC 31-34-1-3**
 26 **against a child and is awaiting trial.**

27 (b) The following may not be used as grounds to rebut the
 28 presumption under subsection (a):

- 29 (1) The child who is the victim of the ~~sex~~ offense described in
 30 IC 31-34-1-3 is not genetically related to the adult who committed
 31 the act, but the child presumed to be the child in need of services
 32 under this section is genetically related to the adult who
 33 committed the act.
 34 (2) The child who is the victim of the ~~sex~~ offense described in
 35 IC 31-34-1-3 differs in age from the child presumed to be the
 36 child in need of services under this section.

37 (c) This section does not affect the ability to take a child into
 38 custody or emergency custody under IC 31-34-2 if the act of taking the
 39 child into custody or emergency custody is not based upon a
 40 presumption established under this section. However, if the
 41 presumption established under this section is the sole basis for taking
 42 a child into custody or emergency custody under IC 31-34-2, the court



1 first must find cause to take the child into custody or emergency
2 custody following a hearing in which the parent, guardian, or custodian
3 of the child is accorded the rights described in IC 31-34-4-6(a)(2)
4 through IC 31-34-4-6(a)(5).



COMMITTEE REPORT

Madam President: The Senate Committee on Judiciary, to which was referred Senate Bill No. 26, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is to SB 26 as introduced.)

STEELE, Chairperson

Committee Vote: Yeas 9, Nays 0

SENATE MOTION

Madam President: I move that Senate Bill 26 be amended to read as follows:

Page 2, delete lines 39 through 42 and insert "**A child is a child in need of services if, before the child becomes eighteen (18), the child:**

(1) needs care, treatment, or rehabilitation that:

(A) the child is not receiving; and

(B) is unlikely to be provided or accepted without the coercive intervention of the court; and

(2) lives in the same household as an adult who:

(A) committed an offense described in subsection (a)(1) against a child, and the offense resulted in a conviction or a judgment under IC 31-34-11-2; or

(B) has been charged with an offense described in subsection (a)(1) against a child and is awaiting trial."

Page 3, delete lines 1 through 4.

Page 3, line 23, reset in roman "The following may not be used as grounds to rebut the".

Page 3, reset in roman lines 24 through 32.

Page 3, line 33, reset in roman "(c)".

(Reference is to SB 26 as printed January 22, 2016.)

STEELE



COMMITTEE REPORT

Mr. Speaker: Your Committee on Family, Children and Human Affairs, to which was referred Senate Bill 26, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, delete lines 41 through 42, begin a new line block indented and insert:

"(1) lives in the same household as an adult who:

(A) committed an offense described in subsection (a)(1) against a child, and the offense resulted in a conviction or a judgment under IC 31-34-11-2; or

(B) has been charged with an offense described in subsection (a)(1) against a child and is awaiting trial; and

(2) needs care, treatment, or rehabilitation that:

(A) the child is not receiving; and

(B) is unlikely to be provided or accepted without the coercive intervention of the court.".

Page 3, delete lines 1 through 8.

Page 3, line 29, strike "sex".

Page 3, line 34, strike "sex".

and when so amended that said bill do pass.

(Reference is to SB 26 as reprinted January 26, 2016.)

FRIZZELL

Committee Vote: yeas 12, nays 0.

